

AMENDED IN ASSEMBLY APRIL 27, 2009

AMENDED IN ASSEMBLY MARCH 26, 2009

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## ASSEMBLY BILL

**No. 245**

---

**Introduced by Assembly Member Ma**

February 10, 2009

---

An act to amend Section 2027 of the Business and Professions Code, relating to physicians and surgeons.

### LEGISLATIVE COUNSEL'S DIGEST

AB 245, as amended, Ma. Physicians and surgeons.

Existing law, the Medical Practice Act, provides for the licensure and regulation of physicians and surgeons by the Medical Board of California. Existing law requires the board to post certain information on the Internet regarding licensed physicians and surgeons, including, but not limited to, felony convictions, certain misdemeanor convictions, and whether or not the licensees are in good standing. Existing law requires that certain information remain posted for 10 years and prohibits the removal of certain other information.

This bill would require the board to verify the information posted pursuant to those provisions, as specified, and would require the board to immediately remove information discovered to be false and to remove expunged misdemeanor or felony convictions within a specified period of time. The bill would also require the board to ensure that the biographical information posted on its Internet Web site regarding licensees is accurate. The bill would *also* require the board to establish a process for addressing complaints from licensees regarding the posting of inappropriate information ~~and would make the board liable for~~

~~damages incurred by a licensee as a result of the board's failure to comply with these requirements.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 2027 of the Business and Professions  
2     Code is amended to read:  
3     2027. (a) The board shall post on the Internet the following  
4     information in its possession, custody, or control regarding licensed  
5     physicians and surgeons:  
6     (1) With regard to the status of the license, whether or not the  
7     licensee is in good standing, subject to a temporary restraining  
8     order (TRO), subject to an interim suspension order (ISO), or  
9     subject to any of the enforcement actions set forth in Section 803.1.  
10    (2) With regard to prior discipline, whether or not the licensee  
11    has been subject to discipline by the board or by the board of  
12    another state or jurisdiction, as described in Section 803.1.  
13    (3) Any felony convictions reported to the board after January  
14    3, 1991.  
15    (4) All current accusations filed by the Attorney General,  
16    including those accusations that are on appeal. For purposes of  
17    this paragraph, "current accusation" shall mean an accusation that  
18    has not been dismissed, withdrawn, or settled, and has not been  
19    finally decided upon by an administrative law judge and the board  
20    unless an appeal of that decision is pending.  
21    (5) Any malpractice judgment or arbitration award reported to  
22    the board after January 1, 1993.  
23    (6) Any hospital disciplinary actions that resulted in the  
24    termination or revocation of a licensee's hospital staff privileges  
25    for a medical disciplinary cause or reason.  
26    (7) Any misdemeanor conviction that results in a disciplinary  
27    action or an accusation that is not subsequently withdrawn or  
28    dismissed.  
29    (8) Appropriate disclaimers and explanatory statements to  
30    accompany the above information, including an explanation of  
31    what types of information are not disclosed. These disclaimers and  
32    statements shall be developed by the board and shall be adopted  
33    by regulation.

1 (9) Any information required to be disclosed pursuant to Section  
2 803.1.

3 (b) (1) From January 1, 2003, the information described in  
4 paragraphs (1) (other than whether or not the licensee is in good  
5 standing), (2), (4), (5), (7), and (9) of subdivision (a) shall remain  
6 posted for a period of 10 years from the date the board obtains  
7 possession, custody, or control of the information, and after the  
8 end of that period shall be removed from being posted on the  
9 board's Internet Web site. Information in the possession, custody,  
10 or control of the board prior to January 1, 2003, shall be posted  
11 for a period of 10 years from January 1, 2003. Settlement  
12 information shall be posted as described in paragraph (2) of  
13 subdivision (b) of Section 803.1.

14 (2) The information described in paragraphs (3) and (6) of  
15 subdivision (a) shall not be removed from being posted on the  
16 board's Internet Web site. Notwithstanding the provisions of this  
17 paragraph, if a licensee's hospital staff privileges are restored and  
18 the licensee notifies the board of the restoration, the information  
19 pertaining to the termination or revocation of those privileges, as  
20 described in paragraph (6) of subdivision (a), shall remain posted  
21 for a period of 10 years from the restoration date of the privileges,  
22 and at the end of that period shall be removed from being posted  
23 on the board's Internet Web site.

24 (c) Notwithstanding subdivision (b), the board shall remove an  
25 expunged misdemeanor or felony conviction posted pursuant to  
26 this section within 30 days of receiving notice of the expungement.

27 (d) (1) Notwithstanding subdivision (b), the board shall verify  
28 the accuracy of information posted pursuant to this section as of  
29 January 1, 2010, and shall, by April 1, 2010, remove any  
30 information that the board is unable to verify.

31 (2) On and after January 1, 2010, *notwithstanding subdivision*  
32 *(a)*, the board shall not post information pursuant to this section  
33 unless it first verifies the accuracy of that information. The  
34 verification required by this paragraph shall include, but not be  
35 limited to, an attempt to verify the information with the licensed  
36 physician and surgeon who is the subject of the information and  
37 his or her attorney.

38 (3) Notwithstanding subdivision (b), and except as provided in  
39 paragraph (1), any information posted pursuant to this section that

1 the board subsequently discovers to be false shall be immediately  
2 removed.

3 (e) The board shall ensure that the biographical information  
4 posted on its Internet Web site with respect to licensed physicians  
5 and surgeons is accurate.

6 (f) The board shall establish a process to completely address  
7 complaints from licensed physicians and surgeons regarding  
8 inappropriate information posted by the board pursuant to this  
9 section.

10 ~~(g) The board shall be liable for damages incurred by a licensed~~  
11 ~~physician and surgeon as a result of the board's failure to meet the~~  
12 ~~requirements of subdivision (c), (d), or (e).~~

13 ~~(h)~~

14 (g) The board shall provide links to other Web sites on the  
15 Internet that provide information on board certifications that meet  
16 the requirements of subdivision (b) of Section 651. The board may  
17 provide links to other Web sites on the Internet that provide  
18 information on health care service plans, health insurers, hospitals,  
19 or other facilities. The board may also provide links to any other  
20 sites that would provide information on the affiliations of licensed  
21 physicians and surgeons.